THE HONOURABLE MRS. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 27122 of 2007

COMMON ORDER:
(Per T. Meena Kumari, J)

The Writ Petition is filed seeking writ of mandamus declaring the action of the 2nd respondent in rejecting the appeal filed by the petitioner for the assessment year 2002-03 through the impugned order dated 28.8.2006 on the ground of non-compliance of condition of pre-deposit of 12.5% of the disputed tax for maintaining the appeal and further seeking the consequential action of the 1st respondent in issuing the impugned garnishee notice dated 11.10.2007 in Form VAT 206 as illegal and set aside the same and to direct the 2nd respondent to entertain the appeal and decide the same on merits since the petitioner has complied the condition of pre-deposit of 12.5% of the disputed tax for maintaining the appeal.

The learned counsel for the petitioner submits that the petitioner firm is a partnership firm carrying on business in providing Crane services and is undertaking job work of lifting, transporting and stuffing of containers, goods, machinery and other equipment and the petitioner is a registered dealer under the provisions of the APGST Act and is an assessee on the rolls of the 1st respondent herein.

Heard the learned counsel for the petitioner and the learned Special Standing Counsel for Commercial Taxes.

The learned counsel for the petitioner submits that though the petitioner has deposited 12.5% tax, the appeal preferred by the petitioner has been rejected. The learned counsel for the petitioner further relied on the judgment of this Court in W.P.No. 22295 of 2007,

dated 25.10.2007.

In view of the facts and circumstances of the case and following the judgment of this Court in W.P.No.22295 of 2007, dated 25.10.2007, the Writ Petition is disposed of. However, there shall be a direction to the appellate authority to entertain the appeal filed by the petitioner and the same shall be numbered and disposed in accordance with law as expeditiously as possible. In the meanwhile, there shall be interim stay of garnishee proceedings dated 11.10.2007 issued by the 1st respondent, subject to condition that the petitioner shall deposit 50% of the disputed tax for the assessment year 2002-2003 within a period of eight (8) weeks from today after giving credit to the amount already deposited before the respondents. No costs.

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T. MEENA KUMARI, J

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C.V. NAGARJUNA REDDY, J

19.12.2007

N.B.
C.C. by 26.12.2007
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